

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OXY-GEN LABORATORY, LLC,)	
)	
Plaintiff,)	CIVIL ACTION
v.)	FILE NO.: _____
)	
SOUTHWEST LTC, LLC,)	
)	
Defendant.)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Southwest LTC Management Services, LLC (“Defendant”)¹ hereby gives notice of the removal of this civil action from the State Court of Gwinnett County, Georgia to the United States District Court for the Northern District of Georgia, Atlanta Division. This notice is given pursuant to 28 U.S.C. §§ 1441 and 1446. Removal is on the following grounds:

1. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) because complete diversity exists between the parties and because the amount in controversy exceeds \$75,000.00 exclusive of interest, costs and attorneys’ fees.

2. Oxy-Gen Laboratory, LLC (“Plaintiff”) filed the Complaint on April 13, 2023. In the Complaint, Plaintiff alleges that Defendant breached an agreement

¹ Defendant was misnamed in the complaint as Southwest LTC, LLC. However, there is no such entity.

to pay Plaintiff for certain COVID-19 testing services, and that Defendant owes Plaintiff the principal amount of \$142,680.00, plus interest, attorneys' fees, and costs. *See* Compl. ¶¶ 5-7.

3. Defendant's registered agent for service of process received the Summons and Complaint in this case on April 19, 2023. *See* Declaration of Ronald Payne ¶ 5.²

4. Defendant is a limited liability company formed under the laws of Texas. *See* Payne Decl. ¶ 2. Defendant has three members – Ronald R. Payne, P.C., Craig Brashier, and Kirk Parsons. *See Id.* ¶ 3. Messrs. Payne, Brashier, and Parsons are citizens of the state of Texas. *See id.* ¶ 4. Limited liability companies have the citizenship of their members for purposes of determining diversity jurisdiction. *See, e.g., Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004) ("a limited liability company is a citizen of any state of which a member of the company is a citizen"). Accordingly, Defendant is a citizen of Texas for purposes of diversity jurisdiction.

5. Plaintiff is a limited liability company formed under the laws of the state of Georgia. Upon information and belief, Plaintiff's member or members are natural persons who are citizens of the state of Georgia. Accordingly, upon

² A true and accurate copy of the Declaration of Ronald Payne ("Payne Decl.") is attached hereto as Exhibit B.

information and belief, Plaintiff is a citizen of Georgia for purposes of diversity jurisdiction.

6. Pursuant to 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely in that it is filed within thirty (30) days after Defendant received notice of the Complaint by service upon it.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the State Court of Gwinnett County is located within the Northern District of Georgia, Atlanta Division.

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings or orders served on Defendant prior to removal are attached as Exhibit A.

9. Promptly after filing this Notice of Removal, Defendant shall file a Notice of Filing Notice of Removal with the Clerk of the State Court of Gwinnett County, and shall serve the same upon Plaintiff.

10. Based on the foregoing, Defendant is entitled to remove this action to this Court pursuant to 28 U.S.C. § 1332 and § 1441.

Respectfully submitted, this 19th day of May, 2023.

**MORRIS, MANNING & MARTIN,
LLP**

By: /s/ Eric A. Larson

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_____ Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that on this day, I have served a copy of the within and foregoing **NOTICE OF REMOVAL** upon all parties to this matter by electronic mail and by depositing a true copy of the same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Paul S. Suda, Esq.
The Lanier Law Group, LLC
402 Washington Street, SE
Suite 201
Gainesville, Georgia 30501
sudalaw@bellsouth.net

This 19th day of May, 2023.

/s Eric A. Larson
Eric A. Larson
Georgia Bar No. 800631